

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
CINCINNATI DIVISION**

**TOM KONDASH**, on behalf of himself and all others similarly situated,

Case No. 1:15-cv-506

Plaintiff, )

Judge Susan J. Dlott

V.

**KIA MOTORS AMERICA, INC., and  
KIA MOTORS CORPORATION,**

Defendants.

**PLAINTIFF TOM KONDASH'S MOTION TO SEAL**

On Monday, October 2, 2017, Plaintiff will be filing his motion for class certification. In support of that motion, Plaintiff intends to rely on various documents produced in discovery that were designated as “Confidential” under the Stipulated Protective Order. (*See generally* Doc. 60.) The documents at issue were produced and designated Confidential by Defendants and two third parties (Hyundai America Technical Center, Inc. and Webasto Roof Systems, Inc.).

In the Sixth Circuit, there is a “strong presumption against the sealing of documents, which typically may be overcome only by ‘trade secrets, information covered by a recognized privilege (such as the attorney-client privilege), and information required by statute to be maintained in confidence (such as the name of a minor victim of a sexual assault).’” *Shane Grp., Inc. v. Blue Cross Blue Shield*, 825 F.3d 299, 305, 308 (6th Cir. 2016) (citing *Baxter Int’l, Inc. v. Abbott Labs.*, 297 F.3d 544, 546 (7th Cir. 2002)). In overcoming the presumption against sealing, the “privacy interests of innocent third parties should weigh heavily in a court’s balancing equation.” *Id.* (citing

*United States v. Amodeo*, 71 F.3d 1044, 1050 (2d. Cir. 1995)). Sealing orders should therefore be “narrowly tailored.” *Id.*

Plaintiff takes no position as to whether the documents designated Confidential by Defendants, the Hyundai America Technical Center, and Webasto should be sealed. Instead, in order to comply with Local Rule 5.2.1 as well as the Stipulated Protective Order, which mandates that “No Party shall file ‘CONFIDENTIAL’ Information” publicly,” and that any party seeking to file such documents “shall file the document under seal” (Doc. 60 at PageID 932), Plaintiff files this motion to seal the documents after having provided notice to Defendants and the two third parties that, should they wish the documents be sealed, they will likely need to file a declaration or some other document justifying the sealing. *See Palombaro, Jr. v. Emery Federal Credit Union*, No. 1:15-cv-00792-SJD-KLL, Doc. 310 (S.D. Ohio Feb. 15, 2017) (in which a defendant filed a memorandum in support of plaintiffs’ motion to seal documents designated as Confidential by the defendant). Plaintiffs provided that notice by email on the evening of September 26, 2017, along with a list of the following documents and discovery materials that he intends to rely on in support of his class certification motion:

Deposition testimony designated Confidential (including deposition exhibits)

- April 13, 2017 deposition testimony of KMA through Michelle Cameron, including exhibits
- April 19, 2017 deposition testimony of KMA through Joe Perez, including exhibits
- May 11, 2017 deposition testimony of KMA through Jurassic Park, including exhibits
- June 22, 2017 deposition testimony of KMC through Yong Seok Kim, including exhibits
- June 23, 2017 deposition testimony of KMC through Jong Mahn Chung, including exhibits
- May 18, 2017 deposition testimony of HATCI through Richard Willard, including exhibits
- May 26, 2017 deposition testimony of Thomas Mack, including exhibits

Documents designated Confidential by Defendants

KMA00014001-KMA00014025	KMA00014029-KMA00014056
KMA00014057	KMA00014058-KMA00014060
KMA00014061-KMA00014065	KMA00014066-KMA00014113

KMA00014114	KMA00014115
KMA00014124-KMA00014134	KMA00014188-KMA00014196
KMA00014247-KMA00014255	KMA00014339-KMA00014344
KMA00014345-KMA00014354	KMA00014876- KMA00014890
KMA00014926-KMA00014935	KMA00015216-KMA00015232
KMA00015361-KMA00015368	KMA00015583-KMA00015591
KMA00015642-KMA00015649	KMA00015704-KMA00015711
KMA00015761-KMA00015771	KMA00016055-KMA00016066
KMA00016316-KMA00016326	KMA00016880- KMA00016892
KMA00016931-KMA00016948	KMA00017328-KMA00017335
KMA00017405-KMA00017423	KMA00018157- KMA00018162
KMA00018282-KMA00018290	KMA00018373-KMA00018383
KMA00018413-KMA00018420	KMA00018764-KMA00018771
KMA00018772-KMA00018797	KMA00018799-KMA00018830
KMA00018798	KMA00018833- KMA00018900
KMA00018901-KMA00018906	KMA00018910-KMA00018924
KMA00018909-KMA00018924	KMA00019082- KMA00019207
KMA00019972-KMA00019978	KMA00020018
KMA00020019-KMA00020029	KMA00020030
KMA00020123-KMA00020126	KMA00020347-KMA00020354
KMA00022164- KMA00022172	KMA00022424-KMA00022427
KMA00022428-KMA00022430	KMA00022431-KMA00022433
KMA00022434-KMA00022438	KMA00022439-KMA00022443
KMA00022444-KMA00022496	KMA00022837-KMA00022884
KMA00023592-KMA00023624	KMA00023887-KMA00023919
KMA00024488-KMA00024528	KMA00024529-KMA00024541
KMA00024577-KMA00024590	KMA00024591-KMA00025083
KMA00025084-KMA00025302	KMA00025303-KMA00027058
KMA00027059-KMA00029801	KMA00029802-KMA00035027
KMA00035028-KMA00037883	KMA00037884-KMA00044021
KMA00044022-KMA00048808	KMA00048809-KMA00051868
KMA00051869-KMA00054743	KMA00054744-KMA00057923
KMA00057924-KMA00060671	KMA00060672-KMA00064129
KMA00064130-KMA00067975	KMA00067976-KMA00069227
KMA00069228-KMA00070393	KMA00070394-KMA00071588
KMA00071589-KMA00072560	KMA00072561-KMA00073794
KMA(NHTSA)00011414- KMA(NHTSA)00011419	KMA(NHTSA)00011422- KMA(NHTSA)00011444
KMA(NHTSA)00011580- KMA(NHTSA)00011652	KMA(NHTSA)00019795- KMA(NHTSA)00019844

KMA(NHTSA)00018907	KMA(NHTSA)00018908
KMA(emails)00073853- KMA(emails)00073854	KMA(emails)00073855
KMA(emails)00074861- KMA(emails)00074864	KMA(emails)00091724- KMA(emails)00091725
KMA(emails)00091747	KMA(emails)00092324- KMA(emails)00092325
KMA(emails)00092350- KMA(emails)00092352	KMA(emails)00093157- KMA(emails)00093160
KMA(emails)00093382- KMA(emails)00093407	KMA(emails)00094010- KMA(emails)00094013
KMA(emails)00094327- KMA(emails)00094332	KMA(emails)00094918- KMA(emails)00094921
KMA(emails)00094922- KMA(emails)00094947	KMA(emails)00096969- KMA(emails)00096970
KMA(emails)00097026- KMA(emails)00097029	KMA(emails)00098939- KMA(emails)00098943
KMA(emails)00099151- KMA(emails)00099152	KMA(emails)00099153- KMA(emails)00099168
KMA(emails)00099754- KMA(emails)00099759	KMA(emails)00099862- KMA(emails)00099864
KMA(emails)00102219- KMA(emails)00102220	KMA(emails)00102504- KMA(emails)00102506
KMA(emails)00103493- KMA(emails)00103498	KMA(emails)00103503- KMA(emails)00103504
KMC00000732-KMC00000763	KMC00002458-KMC00002459
KMC00002460-KMC00002462	KMC00002473-KMC00002494
KMC00002533-KMC00002544	KMC00003070-KMC00003076
KMC00003077-KMC00003086	KMC00003083-KMC00003086
KMC00003188-KMC00003241	

Documents designated Confidential by HATCI

HACTI-K-00092 - HATCI-K-00095	HACTI-K-00207 - HACTI-K-00215
HATCI-K-00244 - HATCI-K-00245	

Documents designated Confidential by Webasto Roof Systems

WRSI000067-WRSI000091	WRSI000098-WRSI000123
WRSI000184	WRSI000235-WRSI000236
WRSI000298-WRSI000303	WRSI000707-WRSI000752

In the event that the Court decides some or all of the documents should be filed under seal, Plaintiff further requests that the Court also order sealed the unredacted versions of Plaintiffs' filings that will reference the Confidential documents (namely, Plaintiffs' memorandum in support of class certification as well as the Declarations of Neil Hannemann, Thomas Read, and Steven P. Gaskin). Unless otherwise directed, Plaintiff will file a public version of his motion and supporting papers—redacting the portions referencing documents designated as Confidential—on October 2, 2017.

DATED: September 27, 2017

Respectfully submitted,

**GIBBS LAW GROUP LLP**

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants.

/s/ David Stein